

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

THE LINCOLN ELECTRIC
COMPANY, AND LINCOLN
GLOBAL, INC.,

Plaintiffs,

vs.

APPLIED TECHNOLOGY SYSTEMS,
LLC

Defendant.

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs The Lincoln Electric Company (“Lincoln Electric”) and Lincoln Global, Inc. (“Lincoln Global”) (collectively, “Lincoln”) hereby file this Complaint against Applied Technology Systems, LLC (the “Defendant”) as follows:

This is a patent infringement action to stop Defendant’s infringement of Lincoln’s United States Patent No. 8,747,116 entitled “SYSTEM AND METHOD PROVIDING ARC WELDING TRAINING IN A REAL-TIME SIMULATED VIRTUAL REALITY ENVIRONMENT USING REAL-TIME WELD PUDDLE FEEDBACK” (attached hereto as Exhibit A) (hereinafter “the ’116 Patent”) and United States Patent No. RE45,398 entitled “SYSTEM FOR TRACKING AND

ANALYZING WELDING ACTIVITY” (attached hereto as Exhibit B) (hereinafter “the ’398 Patent”).

THE PARTIES

1. Lincoln Global, Inc. (“Lincoln Global”) is a corporation organized and existing under the laws of Delaware, with a principal place of business at 17721 Railroad Street, City of Industry, CA 91748. Lincoln Global possesses extensive technical information and know-how relating to the development, manufacture and sale of welding products and supplies, including welding training products and systems, and is the owner of a large portfolio of intellectual property, including certain patents related to welding training technology.

2. The Lincoln Electric Company (“Lincoln Electric”) is a sister company of Lincoln Global and is a corporation organized and existing under the laws of Ohio. Lincoln Electric has a principal place of business at 22801 St. Clair Ave., Cleveland, OH 44117. Lincoln Electric designs, develops, manufactures, and sells welding products and accessories, including welding training machines and systems, in the United States, including this judicial district. Lincoln Electric is exclusively licensed in the United States under the ‘116 and ‘398 Patents.

3. On information and belief, Applied Technology Systems, LLC is a corporation organized and existing under the laws of the State of Michigan and has a place of business at 5649 Kolly Rd., Bloomfield Township, Michigan 48301,

United States.

JURISDICTION AND VENUE

4. This is an action arising under the patent laws of the United States. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) and 1367 and 35 U.S.C. §§ 271 and 281.

5. This Court has personal jurisdiction over Defendant pursuant to Michigan law and the laws of the United States. Defendant maintains an established distribution network for marketing, offering for sale, selling and distributing products into and throughout Michigan, including products that infringe the United States patents identified in this Complaint, including the Soldamatic welding training system. Further, upon information and belief, Defendant derives substantial revenue from activities within this state and judicial district, and has offered for sale and sold a substantial amount of products into this state and judicial district, either directly or through third parties, including at least the Soldamatic products that infringe Lincoln's patents. Further, upon information and belief, Applied Technology Systems, LLC resides and has a principal place of business in the Eastern District of Michigan.

6. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391 and 1400(b).

FACTUAL ALLEGATIONS AND BACKGROUND

7. Lincoln is the world leader in the design, development and manufacture of welding machines, welding guns, welding power sources, welding consumables, plasma cutting systems, and welding training systems, among other things. As a result of Lincoln's efforts over the years, Lincoln is a leading supplier of welding training products in the world, selling to all categories of consumers, including industrial, professional and educational institutions.

8. On June 10, 2014, United States Patent No. 8,747,116, titled "SYSTEM AND METHOD PROVIDING ARC WELDING TRAINING IN REAL-TIME SIMULATED VIRTUAL REALITY ENVIRONMENT USING REAL-TIME WELD PUDDLE FEEDBACK," was duly and legally issued by the United States Patent and Trademark Office to Lincoln Global as assignee. Since that date, Lincoln Global has been, and still is, the owner of all rights, title and interest in the '116 Patent, including the right to exclude the Defendant from making, using, selling, offering to sell, or importing in this district and elsewhere into the United States the patented invention(s) of the '116 Patent.

9. On March 3, 2015, United States Patent No. RE45,398, titled "SYSTEM FOR TRACKING AND ANALYZING WELDING ACTIVITY," was duly and legally issued by the United States Patent and Trademark Office to Lincoln Global as assignee. Since that date, Lincoln Global has been, and still is,

the owner of all rights, title and interest in the '398 Patent, including the right to exclude the Defendant from making, using, selling, offering to sell, or importing in this district and elsewhere into the United States the patented invention(s) of the '398 Patent.

10. Upon information and belief, Defendant Applied Technology Systems, LLC buys, sells, offers for sale and distributes in the United States the Soldamatic welding training system which infringes each of the '116 and '398 Patents.

11. Upon information and belief, the Soldamatic welding training system that infringes the '116 and '348 Patents is manufactured and imported, sold and offered for sale in this district by Defendant in concert with Seabery Soluciones, S.L. of Spain and Seabery North America Inc.

COUNT I
Patent Infringement - The '116 Patent

12. Lincoln restates the allegations set forth in paragraphs 1-11 and incorporates them by reference.

13. On June 10, 2014, United States Patent No. 8,747,116 was duly and legally issued by the United States Patent and Trademark Office to Lincoln Global. Since that date, Lincoln Global has been, and still is, the owner of all rights, title and interest in the '116 Patent, including the right to exclude the Defendant from making, using, selling, offering to sell, or importing in this district and elsewhere into the United States the patented invention(s) of the '116 Patent.

14. The Defendant has directly infringed the '116 Patent through the sale, offer for sale and use in, and through the manufacture and/or importation into, Michigan and the United States certain products including the Soldamatic welding training system.

15. Upon information and belief, the Defendant has profited from and will continue to profit from its respective infringing activities. Lincoln has been and will continue to be damaged by the Defendant's infringing activities and is entitled to recover damages adequate to compensate it for such infringement, but, in no event, less than a reasonable royalty. The amount of monetary damages Lincoln has suffered by the acts of the Defendant set forth above cannot be determined without an accounting.

16. The harm to Lincoln within this judicial district and elsewhere in the United States resulting from the acts of infringement of the '116 Patent by the Defendant is irreparable, continuing, not fully compensable by money damages, and will continue unless the Defendant's infringing activities are enjoined.

17. Defendant's infringing activities related to the Soldamatic welding training system complained of herein make this an exceptional case entitling Lincoln to the recovery of its reasonable attorneys' fees under 35 U.S.C. § 285 and other applicable law.

COUNT II
Patent Infringement - The '398 Patent

18. Lincoln restates the allegations set forth in paragraphs 1-17 and incorporates them by reference.

19. On March 3, 2015, United States Patent No. RE45,398 was duly and legally issued by the United States Patent and Trademark Office to Lincoln Global as assignee. Since that date, Lincoln Global has been, and still is, the owner of all rights, title and interest in the '398 Patent, including the right to exclude the Defendant from making, using, selling, offering to sell, or importing in this district and elsewhere into the United States the patented invention(s) of the '398 Patent.

20. The Defendant has directly infringed the '398 Patent through the sale, offer for sale and use in, and through the manufacture and/or importation into, Michigan and the United States certain products including the Soldamatic welding training system.

21. Upon information and belief, the Defendant has profited from and will continue to profit from its infringing activities. Lincoln has been and will continue to be damaged by the Defendant's infringing activities and is entitled to recover damages adequate to compensate it for such infringement, but, in no event, less than a reasonable royalty. The amount of monetary damages Lincoln has suffered by the acts of the Defendant set forth above cannot be determined without an accounting.

22. The harm to Lincoln within this judicial district and elsewhere in the United States resulting from the acts of infringement of the '398 Patent by the Defendant is irreparable, continuing, not fully compensable by money damages, and will continue unless the Defendant's infringing activities are enjoined.

23. Defendant's infringing activities related to the Soldamatic welding training system complained of herein make this an exceptional case entitling Lincoln to the recovery of its reasonable attorneys' fees under 35 U.S.C. § 285 and other applicable law.

PRAYER FOR RELIEF

WHEREFORE, Lincoln prays for judgment that:

1. United States Patent No. 8,747,116 was duly and legally issued, is valid, and is enforceable;
2. United States Patent No. RE45,398 was duly and legally issued, is valid, and is enforceable;
3. The Defendant has directly infringed one or more of the claims of each of the '116 and '398 Patents;
4. The Defendant, its respective officers, agents, servants and employees, and those persons in active concert or participation with any of them be enjoined from further infringement of both of the '116 and '398 Patents, including being enjoined from manufacturing, importing, distributing, selling and offering

for sale the Soldamatic welding training system;

5. An accounting be had for the profits and damages arising out of the Defendant's infringement of the '116 and '398 Patents;

6. Lincoln be awarded damages arising out of the Defendant's infringement of the '116 and '398 Patents, with interest, but no less than a reasonable royalty;

7. Lincoln be awarded its attorneys' fees, costs, and expenses in this action;

8. Lincoln be awarded pre-judgment and post-judgment interest on its damages, as allowed by law; and

9. Lincoln be awarded such other relief as this Court may deem just, equitable, and proper.

DEMAND FOR JURY TRIAL

Lincoln hereby demands a jury trial on all issues so triable.

Dated: October 7, 2015

Respectfully submitted,
BUTZEL LONG, a professional corporation

By: /s/ Michael J. Lavoie

Michael J. Lavoie (P32584)

150 W. Jefferson, Suite 100

Detroit, Michigan 48226

(313) 225-7000

lavoie@butzel.com

Co-Counsel for Plaintiff

Of Counsel:

Todd Tucker OH 0065617 (Admitted Eastern
District of Michigan 11/26/2013)

John Cipolla (application for admission to be
filed)

CALFEE, HALTER & GRISWOLD LLP

The Calfee Building

1405 East Sixth Street

Cleveland, OH 44114

Tel: (216) 622-8200

Fax: (216) 241-0816

ttucker@calfee.com

Terrance J. Wikberg

(application for admission to be filed)

PERKINS COIE LLP

700 13th Street, NW

Suite 600

Washington, D.C. 20005

Tel: (202) 654-6201

Fax: (202) 654-9149

*Attorneys for Plaintiffs The Lincoln Electric
Company, and Lincoln Global, Inc.*